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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,093	01/15/2002	Susumu Takeuchi	837.1978	1243
21171	7590	04/28/2009		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER	
			BELLO, AGUSTIN	
			ART UNIT	PAPER NUMBER
			2613	
			MAIL DATE	DELIVERY MODE
			04/28/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/045,093

Applicant(s)

TAKEUCHI ET AL.

Examiner

Agustin Bello

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,8-13,18,20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,8-13,18 and 20 is/are allowed.
- 6) ☒ Claim(s) 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fatehi (U.S. Patent No. 6,600,581) in view of Ford (Patent No. US 6,392,769 B1).

Regarding claim 21, Fatehi teaches a demultiplexing unit (inherent in the ability to cross-connect on a per-wavelength basis of column 5 lines 35-46) demultiplexing the wavelength-division-multiplexed signal into each of said plurality of wavelength components having an identifier (i.e. tag throughout) stored in a predetermined position in each of said plurality of wavelength components and outputting said wavelength components to output terminals; a plurality of extraction units (reference numeral 211 in Figure 2) extracting an identifier (e.g. "tag" throughout) stored in a predetermined position in each of the plurality of wavelength components; a plurality of determination units (reference numeral 620 in Figure 6; a plurality of which are formed in elements 211 of Figure 2 collectively) determining whether or not said identifier stored in the predetermined position in each of the plurality of wavelengths components is normal; and a plurality of extraction judgment units (reference numerals 625, 630,

635, 640 in Figure 6) judging whether or not each of the plurality of wavelength components in an optical signal is down and whether said identifier is abnormal for each of said wavelength components, based on a detection result output by the determination unit associated with each of the wavelength components (reference numeral 620 in Figure 6), wherein each identifier identifies a channel associated with each of the wavelength components and is uniquely determined by the channel (as indicated in Figures 3A-3C, Figure 4). Fatehi differs from the claimed invention in that Fatehi fails to specifically teach a plurality of power detection units detecting a power of each of the plurality of wavelength components, or making judgments based on a detection result output by the power detection unit associated with each of the wavelength components. However, applicant admits that power detection units that detect the power of each transmitted signal are well known in the art. Furthermore, Ford explicitly teaches that such units are well known in the art (reference numeral 405 in Figure 4). One skilled in the art would have been motivated to include power detection units that detect the power of each wavelength of light in order to allow for the monitoring of each wavelength as opposed to a group of wavelengths, to improve bit error rate, and to facilitate power level adjustment on a wavelength-by-wavelength basis (column 7 lines 1-9). Moreover, the inclusion of the power detection units of Ford in the apparatus of Fatehi would have allowed judgments based on a detection output by the power detection unit associated with each of the wavelength components. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to include a plurality of power detection units detecting a power of each of the plurality of wavelength components, and making judgments based on a detection result output by the power detection unit associated with each of the wavelength components.

Allowable Subject Matter

4. Claims 1-3, 8-13, 18, and 20 are allowed.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agustin Bello whose telephone number is (571) 272-3026. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2613

Agustin Bella

Primary Examiner

Art Unit 2613